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| FALLON PAIUTE-SHOSHONE TRIBES,      | : | Order Affirming Decision |
| Appellant                           | : |                          |
|                                     | : |                          |
| v.                                  | : |                          |
|                                     | : | Docket No. IBIA 94-70-A  |
| CHIEF, BRANCH OF JUDICIAL SERVICES, | : |                          |
| BUREAU OF INDIAN AFFAIRS,           | : |                          |
| Appellee                            | : | July 14, 1994            |

This is an appeal from a February 8, 1994, decision of the Chief, Branch of Judicial Services, Bureau of Indian Affairs (Chief, BIA), declining to consider appellant's application for a FY 1994 Special Tribal Court grant because it exceeded the 50-page limit imposed in Part IV, section E(3), of the program announcement, 58 FR 53374, 53377 (Oct. 14, 1993).

Part IV, section E, provided, in relevant part:

(3) Each application shall not exceed fifty (50) pages, space and one-half or double-spaced, exclusive of required forms and assurances which are listed below. Applications which are single-spaced will be considered only if it is determined the applicant has not thereby gained a competitive advantage.

(4) The following documents are excluded from the 50 page limitation:  
A tribal resolution or endorsement or such other written expression as tribal laws or practice require; written assurance of the procedures required in OMB Circular A-128; proof of non-profit status; Standard Forms (SF) 424 and 424B; Certification regarding a Drug-free Workplace, DI-1955 (May 1990); Assurance--Non-construction Programs; and, Certification Regarding Lobbying. All required forms are included at the end of this announcement.

(5) Within the 50 page limitation, the following guidelines are suggested:

(a) Background and summary description (one page)

(b) Program narrative (20-30 pages);

(c) Budget and budget justification (5-10 pages); and

(d) Applicant's capability statement, including an organization chart and vitae for key project personnel, including consultants and third-party technical assistance providers (5-10 pages).

(6) In addition, applicants are encouraged to include letters endorsing or supporting the proposed project which are specific and/or verify tangible commitments to the project, e.g., staff, facilities, training.

In her February 8, 1994, decision, the Chief stated that appellant's application totalled 57 pages. In her brief before the Board, she stated that the application totalled 55 pages. This difference appears to be attributable to the Chief's change of position concerning letters of support under section E(6). 1/ Two pages of appellant's application are identified in the application's table of contents as "Support Letters." The documents on these pages appear to fall within the scope of section E(6).

Appellant contends here that two appendices to its application should also be considered exempt from the 50-page limitation under section E(6). Appellant's Appendix A, consisting of 25 pages, is a vendor proposal for a computer program designed for tracking court information. Its Appendix B, consisting of one page, is a price quote for a computer from another vendor. Appellant contends that these documents, while not in strict letter format, fall within the scope of section E(6) because they are documents sent to the Tribe and show support for the Tribe's proposed project. 2/

While undoubtedly the vendors who submitted these proposals were supportive of appellant's project, given that they stood to sell products and services to appellant, the Board finds it unlikely that this was the kind of endorsement and support envisioned in section E(6). Rather, it appears that the letters contemplated by this section were letters from individuals and groups who would participate in or benefit in non-commercial ways from the project proposed for funding.

The Board holds that the term "letters endorsing or supporting the proposed project" in section E(6) was not intended to include vendor proposals.

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1/ In its initial review of applications under the Special Tribal Court grant program, BIA proceeded upon the assumption that letters of support under section E(6) should be counted toward the 50-page limitation. However, in Nisqually Indian Tribe v. Chief, Branch of Judicial Services, 26 IBIA 2 (1994), the Chief acknowledged that the language of section E(6) was ambiguous in this regard. She took the position in Nisqually that the ambiguity should be interpreted in an applicant's favor and therefore requested that the application at issue be remanded to her for review and rating because, when documents covered by section E(6) were not counted, the application fell within the 50-page limitation.

2/ The Board observes that appellant's application did not identify either vendor proposal as a letter of support. As noted above, however, the application specifically identified two other documents as letters of support.

Appellant's application, including the two appendices, exceeds the 50 page limitation in section E(3).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Chief's February 8, 1994, decision is affirmed.

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Anita Vogt  
Administrative Judge

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Kathryn A. Lynn  
Chief Administrative Judge